

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>MARY JONES,</b>	§	
	§	
<b>Plaintiff,</b>	§	
	§	
<b>vs.</b>	§	<b>CIVIL ACTION NO.:</b>
	§	
<b>SAFECO INSURANCE COMPANY OF AMERICA,</b>	§	
	§	
<b>Defendant.</b>	§	

**DEFENDANT'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §1446(a) and Local Rule CV-81(a), Defendant Safeco Insurance Company of Indiana (“Safeco” or “Defendant”), improperly served and sued as Safeco Insurance Company of America, files this Notice of Removal, hereby removing this action from the District Court, 160th Judicial District of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiff Mary Jones (“Plaintiff”) and Safeco, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of its Notice of Removal, Defendant would respectfully show the Court as follows:

**I.**

**INTRODUCTION**

This dispute arises from Plaintiff’s claim for hail damage to her home located at 4020 Stone Haven Drive, Garland, Texas 75043-7290, (the “Property”). Plaintiff alleges that Defendant breached a policy of insurance, and violated certain provisions of the Texas Insurance Code and Texas Deceptive Trade Practices Act (“DTPA”) by, among other things, failing to pay Plaintiff’s claim for damages resulting from an alleged hailstorm.

On September 24, 2015, Plaintiff filed her Original Petition in the District Court, 160th Judicial District of Tarrant County, Texas. Safeco was personally served with a citation and a

copy of Plaintiff's Original Petition on September 28, 2015 through its registered agent for service of process. Defendant timely filed an answer to Plaintiff's Original Petition. This Notice of Removal is being filed within thirty (30) days of service of the Petition, and is thus timely filed under 28 U.S.C. §1446(b).

## II.

### **BASIS FOR REMOVAL**

#### **A. DIVERSITY OF CITIZENSHIP**

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiff Mary Jones is a citizen of Texas. *See* Plaintiff's Original Petition ¶3. Safeco Insurance Company of Indiana<sup>1</sup> is a corporation organized under the laws of the State of Massachusetts, with its principal place of business in Boston, Massachusetts.

#### **B. AMOUNT IN CONTROVERSY**

##### **1. Standards**

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff's Original Petition that its claims exceed \$75,000.00. In paragraph 69 of the Petition, Plaintiff states that "Plaintiff seeks monetary relief over \$100,000...." *See* Plaintiff's Original Petition, ¶ 69

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from Safeco. Finally, as alleged in her petition, Plaintiff seeks to recover in excess of

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<sup>1</sup> Safeco Insurance Company of America—whom Plaintiff names as defendant in its Original Petition—is a company organized under the laws of the State of New Hampshire, with its principal place of business in Boston, Massachusetts.

\$100,000.00 from Defendant. Therefore, the amount in controversy in this case clearly exceeds \$75,000.00.

**CONSENT TO REMOVAL UNNECESSARY**

Safeco is the only defendant named in Plaintiff's Petition, thus, no additional consent is needed for removal.

**III.**

**COMPLIANCE PROCEDURAL REQUIREMENTS**

As required by Local Rule 8.1(a), filed concurrently with this Notice of Removal is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with LR 3.1(c). Additionally, the following exhibits are attached:

- **EXHIBIT A** Index of all documents filed in state court;
- **EXHIBIT B** Register of Actions in the state court action;
- **EXHIBIT C-1-C-2** A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendant will give written notice of filing of this Notice of Removal to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendant will file a true and correct copy of this Notice of Removal with the District Clerk, 160th Judicial District, Dallas County, Texas promptly after filing of same.

**IV.**

**CONCLUSION AND PRAYER**

Based on the foregoing, Defendant Safeco Insurance Company of Indiana respectfully requests that the above-captioned action now pending in the District Court, 160th Judicial

District, Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

*/s/ Mark D. Tillman*

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**ATTORNEYS FOR DEFENDANT  
SAFECO INSURANCE COMPANY OF  
INDIANA**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been forwarded to Plaintiff's counsel of record via electronic means and/or facsimile, on the 27th day of October, 2015, in accordance with the FEDERAL RULES OF CIVIL PROCEDURE.

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*/s/ Mark D. Tillman*

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